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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

CULBRETH, ERIC D

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,198

Applicant(s)

WOODY ET AL.

Examiner

Eric D Culbreth

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1,4-7,11-13,15 and 16 is/are rejected.
- 7) ☒ Claim(s) 2,3,8-10,14 and 17-19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to because of the following informalities. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

a. Regarding page 4, paragraph [15] and the remainder of the specification, there is no Figure 3 in the drawings (even the tops of Figures 1 and 2 say "1/2" and "2/2", indicating only two pages of Figures, and there is only one figure on each of pages 1/2 and 2/2.

b. There is no piston 21 (page 10, line 2) on the drawings.

c. Noting paragraphs [48] – [50] on pages 12-13, as noted above, there is no Figure 3 in the drawings; hence the reference numerals in the listed paragraphs are missing from the drawings.

Specification

2. On page 10, line 16 one of the periods after "decreased" was deleted by informal examiner's amendment.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are not accurate to the invention as disclosed (a pressure relief valve in fluid communication with the first and second lines and releasing to a fluid tank is not shown in Figures 1-2; possibly it was to have been disclosed in missing Figure 3?).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 4-5 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by German Published Patent 4,100,236.

German '236 discloses a damping system (the recitation in the preamble that the system is for an axle configured to pivot about a pivot point is a functional statement of intended use, failing to patentably define distinguishing structural characteristics; similarly, references to the axle and pivot point throughout claims 1-2 and 4-5 are functional statements of intended use). The line with valves 24, 25 in Figure 1 connect first and fourth chambers of hydraulic cylinders on each side of the vehicle, and line 28 connects second and third chambers of the cylinders as broadly recited. Passage 12, 26 with restriction 27 connects the first and second fluid lines, and

valve mechanism 19 between the first and second lines releases fluid from one of the lines through change one of the over valves 13 when the pressure of the fluid in one of the fluid lines reaches a predetermined level (in the English abstract, valve 19 is a pressure limiting valve) (claim 1). Regarding claim 4, in view of the indefinite recitation, the positive limitations of the claim appear to be met by the reference. Passageway 12, 26 has orifice 27 restricting it (claim 5).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over German '236 in view of Sugasawa et al (cited by applicant).

German '236 does not disclose a control mechanism to adjust the size of the orifice. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify German '236 to include a control mechanism adjusting the orifice as taught by Sugasawa et al (orifices 18L, 18R controlled by controller 28) in order to allow greater fluid flow during large wheel strokes (Sugasawa et al, abstract).

10. Claims 7, 11-12, and 15 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over German '236 in view of Chino.

As discussed above, German '236 teaches interconnected valve chambers as claimed, and the features of claim 11 are so indefinite as to be met by the reference in terms of its positive limitations. German '236, however, does not teach an axle with a pivot pin. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify German '236 to include an axle with a pivot pin such as Chino's axle 2 with pin 3 in order to improve comfort and stability (Chino, column 1, lines 5-10).

11. Claims 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over German '236 in view of Chino as applied to claims 12 and 15 above, and further in view of Sugasawa et al.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify German '236 and Chino to include adjustable orifices adjustable by a control mechanism as taught by Sugasawa et al in order to allow larger orifices on larger wheel strokes.

Allowable Subject Matter

12. Claim 20 is allowed.

13. Claims 2-3, 8-10, 14, and 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D Culbreth whose telephone number is 703/308-0360. The examiner can normally be reached on Monday-Thursday, 9:30-7:00 alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Eric D Culbreth
Primary Examiner
Art Unit 3616

Eric Culbreth
9/17/03

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